



DEPARTMENT OF VETERANS AFFAIRS  
Washington DC 20420

December 14, 2018

In Reply Refer To: 001B  
FOIA Request: 18-10298-F

Taylor Amarel  
MuckRock News  
DEPT MR 57429  
411A Highland Ave  
Somerville, MA 02144-2516  
[57429-55986337@requests.muckrock.com](mailto:57429-55986337@requests.muckrock.com)

Dear Taylor Amarel:

This is the Second Partial Initial Agency Decision (IAD) to your Freedom of Information Act (FOIA) request to the Office of the Secretary, U.S. Department of Veterans Affairs (OSVA), dated July 4, 2018, referred to and received in this FOIA office on July 20, 2018, and assigned FOIA tracking number **18-10298-F**. You requested: "the last 200 pages of emails sent to, from, or copied to [VAExecSec@va.gov](mailto:VAExecSec@va.gov)."

**Second Partial IAD and Reasonable Searches Dated 7/14/18, 8/24/18, and 11/8/18**

On July 14, 2018, August 24, 2018, and November 8, 2018, the OSVA Program Assistant or the OSVA FOIA Officer searched through the email box [VAExecSec@va.gov](mailto:VAExecSec@va.gov) with the date timeframe of July 5, 2018, to August 24, 2018. These three separate, reasonable searches search yielded two hundred two (202) pages, for which OSVA released twenty-six (26) pages on November 8, 2018. OSVA now releases the remaining one hundred seventy-six (176) pages.

After reviewing the one hundred seventy-six (176) pages, OSVA redacts some information with FOIA Exemptions 6, 7(C), and 7(E). 5 U.S.C. § 552(b)(6) exempts from required disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." FOIA Exemption 6 permits VA to withhold a document or information within a document if disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government. Specifically, the information being withheld under FOIA Exemption 6 consists of names, identities, physical addresses, email addresses, phone numbers, cellular numbers, facsimile numbers, and personal signatures of private citizens and federal and White House employees with security clearances; as well as veteran social security numbers and personal health information, including medical diagnoses, symptoms, and names of medical providers. we however release the names and contact information of Senior Executives. Private citizens, federal civilian and White House employees with security clearances, and veterans retain a significant privacy interest under certain circumstances, such as in instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their sphere of employment. The private citizens, federal civilian and White House employees with security clearances, and veterans whose information is at issue have a substantial privacy interest in their personal information. In weighing the private versus the

public interest, except names and VA contact information of VA Senior Executives, we find that there is no public interest in knowing the names, identities, physical addresses, email addresses, phone numbers, cellular numbers, facsimile numbers, and personal signatures of private citizens and federal and White House employees with security clearances; as well as veteran social security numbers and personal health information, including medical diagnoses, symptoms, and names of medical providers. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the FOIA requester is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the records, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest of the individuals whose names are redacted. The protected information has been redacted and (b)(6) inserted. "Withholding a telephone number or e-mail address, alone, is not sufficient to protect that [privacy] interest; alternate means of contacting and harassing these employees would be readily discoverable on the Internet if this court ordered their names disclosed." Long v. Immigration & Customs Enf't, 2017 U.S. Dist. LEXIS 160719 (D.C. Cir. 2017).

5 U.S.C. § 552(b)(7)(C) exempts from required disclosure information law enforcement information the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." Redacted information includes names, email addresses, and phone numbers of White House employees with security clearances. The release of this information would risk impersonation or harassment of these White House employees with security clearances also working on national security and law enforcement matters, as well as jeopardizing their health and safety and those the White House employees are charged with protecting.

5 U.S.C. § 552(b)(7)(E) exempts from required disclosure information that "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." Redacted information includes internal VA and White House case mail website addresses and email addresses. The release of this information would expose the Office of the President and the VA, their employees, and their contractors to potential hacking and information technology security liabilities reasonably risking circumvention of the law.

#### **November 8, 2018 Partial IAD**

As a reminder, on November 8, 2018, OSVA released twenty-six (26) pages redacted with FOIA Exemptions 5, 6, 7(C), and 7(E). 5 U.S.C. § 552(b)(5) exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." The government is entitled to redact confidential government information given "the sensitivity of the commercial secrets involved, and the harm that would be inflicted upon the Government by premature disclosure." Federal Open Market Committee v. Merrill, 443 U.S. 340, 363 (1979). Redacted information includes internal VA and White House case mail website addresses. The release of this information would expose the Office of the President and the VA, their employees, and their contractors to potential hacking and information technology security liabilities and risks.

**FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

**VA Central Office FOIA Public Liaison:**

Name: John Buck

Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

**Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

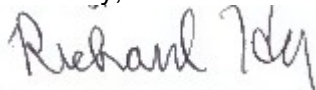
**FOIA Appeal**

This concludes OSVA's response to request **18-10298-F**. Please be advised that should you desire to do so, you may appeal the determination made in this response to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Sincerely,



Richard Ha, JD, CIPP/G  
OSVA FOIA Officer

Attachment – redacted one hundred seventy-six (176) pages